

EXHIBIT 5

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

ANDREW COLBORN,

COPY

Plaintiff,

-vs-

CIVIL ACTION NO. 19-CV-0484-BHL

NETFLIX, INC., ET AL.,

VOLUME I

Defendants.

VIDEOTAPED DEPOSITION OF

ANDREW L. COLBORN

DATE: July 21, 2022

TIME: 9:23 a.m. - 5:22 p.m.

LOCATION: Godfrey & Kahn, S.C.
833 East Michigan Street
Suite 1800
Milwaukee, Wisconsin 53202

REPORTED BY:
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A P P E A R A N C E S

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15 Moira Demos.

16 ALSO PRESENT:

17 Debra Bursik, Paralegal

18 Moira Demos, Defendant

19 Laura Ricciardi, Defendant

20 Melinda LeMoine, Director, Litigation, Netflix, Inc.

1 MR. BURNETT: I'll withdraw the
2 objection. You can answer.

3 A I disagree with that statement.

4 Q On what basis? Let me -- let me ask you.
5 You've not watched the whole thing?

6 A Correct.

7 Q In fact, you haven't even watched the last
8 three episodes at all according to your stipulated
9 facts, correct?

10 A That is correct, yes.

11 Q So you have no idea in those last three
12 episodes whether it tells both sides of the stories,
13 raises questions, or encourages viewers to reach
14 their own conclusion? You just don't know, correct?

15 A I don't know any of the content of the last
16 three episodes, that's correct.

17 Q Can you point me to where in Making a
18 Murderer it contends that you planted evidence to
19 frame Avery for Teresa Halbach's murder?

20 A I believe there's quite a few examples in
21 the Complaint that were -- so I'm not an attorney.

22 Q I know.

23 A I hired attorneys to do the research to find
24 that evidence.

25 Q I'm just asking you -- yeah. And your

1 Q In fact, the best evidence of any testimony
2 at trial would be the trial transcript itself,
3 correct?

4 A Yes.

5 Q And I think this goes both ways, but would
6 you agree that the best evidence of what Making a
7 Murderer says about you is the documentary itself or
8 a transcript of the documentary, correct?

9 A Well, I would surmise that there's probably
10 more to Making a Murderer than just the transcript of
11 it. The video probably would be very telling --

12 Q Of course.

13 A -- inserting facial expressions and stuff.

14 Q You misunderstood my question. I'm just
15 asking, you would agree that the best evidence of
16 what Making a Murderer says and portrays is the
17 documentary itself?

18 A Yes.

19 Q And we should not attempt to reword or
20 characterize either the transcript or the
21 documentary, correct?

22 A What do you mean by characterize the
23 documentary?

24 Q Try to paraphrase it or summarize it or
25 characterize what it says. We should instead just

1 **Steven Avery?**

2 A I'm sorry. Can you repeat that? I'm sorry.

3 Q So I'll represent to you in the three
4 **episodes you didn't watch --**

5 A Yes.

6 Q -- the reading of the verdict is shown --

7 A Okay.

8 Q -- and Steven Avery is walked out of the
9 **courtroom in handcuffs to jail. That detracts from**
10 **any strong and definite statement that you planted**
11 **evidence to frame him, correct?**

12 A I don't know. Without watching it, I don't
13 know. I don't know how -- in what context it was
14 shown, so I don't know.

15 Q Do you have any intention of watching Making
16 **a Murderer in its entirety?**

17 A No.

18 Q Okay.

19 A I don't.

20 Q Despite litigating a federal lawsuit that
21 **may go to trial, you don't plan to watch the**
22 **documentary that you've sued over?**

23 A It's ruined my life. I'm not going to pay
24 to watch it.

25 Q Well, that's not my question, and I'll move

1 such a thing! But a majority assumed he was
2 guilty--why would the police have arrested him if he
3 wasn't involved?"

4 I think I skipped over a sentence about
5 Nancy Grace, but otherwise, did I read that
6 correctly?

7 A Yes.

8 Q And do you agree with this assessment of the
9 local reaction to the murder of Teresa Halbach and
10 the arrest of Steven Avery?

11 A I'll agree that there were some in the
12 community that thought he was innocent; some thought
13 he had done this again. I don't know if the majority
14 was one way or the other. That's Mike's opinion.

15 (Exhibit 15-B marked for identification.)

16 Q Understood. So I'll now hand you
17 Exhibit 15-B, which is also from The Innocent Killer.
18 This is from a few pages later in the book, page 215.
19 And in the third paragraph down, Mr. Griesbach wrote,
20 "The Avery case was naturally the chief topic of
21 discussion at Warren's from the date of Teresa
22 Halbach's appearance" [sic] "until the end of the
23 trial. From Mike the window washer to the county
24 executive, everyone at Warren's had an opinion about
25 the case, and given what I do for a living, they

1 **quote. You would agree with Ms. Heinzen's**
2 **assessment, correct?**

3 A Mrs., I believe, and, you know, that might
4 be her interpretation of it, but yes, certainly Avery
5 had his supporters and not quite or anywhere near as
6 vocally. Law enforcement probably had a few
7 supporters as well.

8 Q So I want to turn again to Exhibit 1 and
9 those stipulations that we proposed.

10 A Okay.

11 Q And specifically numbers 11, 13, and 14.
12 I'll read them out loud. Number 11 says, "Mr.
13 Colborn felt wronged by the frame-up theory put forth
14 by the defense at Mr. Avery's trial."

15 Number 13 says, "Mr. Colborn felt the
16 frame-up theory put forth by the defense at
17 Mr. Avery's trial harmed his reputation."

18 And number --

19 A Hang on one second, okay? So you're reading
20 11, 12, and 13, because mine says 13 blank --

21 Q Yes.

22 A -- and 11.

23 Q I know. If you could flip to the ones we
24 proposed --

25 A Okay.

1 some documents to help me understand why you won't
2 agree to them, and we'll come back to them probably
3 at the end and I'll ask you again, just as I have
4 with some others.

5 A Okay.

6 Q So we're going to start by talking about
7 Ms. Schuler, and my first question is just when did
8 you last speak to her?

9 A I can't give you an exact date, Ms. Walker,
10 but months ago.

11 Q Okay. Have you talked to her since she was
12 deposed in this case?

13 A No.

14 Q So she hasn't told you about her deposition?

15 A She has not.

16 Q And you previously testified she's a friend
17 of yours, correct?

18 A She is.

19 Q And would it surprise you that you produced
20 more than 4,000 text messages with her in this case?

21 A I don't know how many text messages I've
22 shared with her.

23 Q But it doesn't surprise you to hear that
24 it's over 4,000?

25 A Do you have the 4,000 text messages?

1 Q I'll represent to you it was over 4,000.
2 You don't have to agree or disagree.

3 A Okay.

4 Q Let me ask you just a few more questions to
5 get a sense of the nature of your friendship. She
6 came to your retirement party, correct?

7 A Yes.

8 Q And you went to her son's wedding?

9 A I did.

10 Q And you've gone out to eat together?

11 A Yes.

12 Q And would you say you trust her?

13 A I felt she was someone I could trust, yes.

14 Q And would you say that you have confided in
15 her?

16 A Yes.

17 Q And have you trusted her to speak on your
18 behalf?

19 A Yes.

20 Q And she is working, as we've discussed, on
21 this documentary called Convicting a Murderer,
22 correct?

23 A Yes.

24 Q We asked you to admit that Convicting a
25 Murderer is meant to serve as a rebuttal to Making a

1 want to confirm that this Exhibit 23 is your second
2 interview for that film, correct?

3 A So nothing's dated again. I don't know
4 which -- what I said in my first interview, what I
5 said in my second interview. You know, I was never
6 given a transcript of Convicting a Murderer.

7 Q So I'll represent to you that Ms. Schuler
8 represented to us that you were interviewed twice and
9 that Exhibit 8 and Exhibit 23 are the transcripts for
10 the two separate interviews. And you don't have any
11 reason to think she was dishonest with us in any way
12 on that, correct?

13 A If she doesn't have the date straight, I
14 don't think she did it out of dishonesty, so no, I
15 don't.

16 Q All right. And you under -- you agree that
17 you sat for two recorded interviews with the
18 filmmakers?

19 A That I do agree to, yes.

20 Q Okay. And it's fine that you don't remember
21 the exact date. Do you know whether this Exhibit 8
22 or Exhibit 23 were first, which one came first?

23 A This does look like it would have come from
24 the second.

25 Q This is the second. Okay. Thank you. So

1 conviction?" And Brenda said, "Yes and no." And I
2 said, "Okay." And then she said, "Okay. He felt
3 defamed, or in my opinion, I would say he felt very
4 wronged after the trial, during the trial, okay?" I
5 said, "M-hm." And she said, "But felt redeemed with
6 the verdict."

7 That's Ms. Schuler's testimony, and my
8 question for you is do you agree with her assessment?

9 A No.

10 Q Which part do you disagree with?

11 A I didn't feel very wronged after the trial.

12 Q Okay. Any other part you disagree with?

13 A No.

14 (Exhibit 35-B marked for identification.)

15 Q Okay. I'm going to hand you 35-B.

16 A Okay.

17 Q So I'm going to start on line 22 of page 141.
18 Do you see where I'm at?

19 A Yes.

20 Q And so I'm following up on Ms. Schuler's
21 testimony, and I say, "So you just testified that he
22 felt very wronged during the trial, and then he felt
23 vindicated by the verdict and that he was very upset
24 by Making a Murderer; is that a fair summary of what
25 you said?" And she said, "Yes." And I asked, "The

1 was my thought when I was done.

2 Q Take a look at page 354, so flip a few
3 pages.

4 A Same -- same exhibit?

5 Q Exhibit 8, tracking number 354.

6 A Okay.

7 Q In the top --

8 A Yeah.

9 Q -- top row, four lines in, "Shortly after I
10 retired." Do you see that?

11 A Yes, I see it.

12 Q "Shortly after I retired, Attorney Jerome
13 Buting, who should be well aware of what slander and
14 defamation is, found out through an unscrupulous
15 reporter who has gone out of his way to make life
16 miserable for me, partially on my own doing, that I
17 was retiring from law enforcement." Did I read that
18 correctly?

19 A Yes.

20 Q Who was making your life miserable?

21 A Do you want me to name the unscrupulous
22 reporter?

23 Q Yes.

24 A John Ferak.

25 Q Okay. I couldn't tell based on the sentence

1 on an unsolved hit-and-run at the time, and I believe
2 that's what that article was about. Again, without
3 having the question, it's hard for me to determine,
4 but it's easy to research Mr. Ferak's work into
5 the -- trying to make it look like the sheriff's
6 department was somehow involved in covering up a
7 hit-and-run that's still unsolved. So that's --

8 Q I understand. Thanks for that context. I
9 would love to get the questions, and we're trying to
10 get the transcript, the audio.

11 Would you take a look at number 25 of the
12 proposed stipulations?

13 A Is that 1 again?

14 Q I think it's this loose-leaf one right
15 here.

16 A Okay. Got it. Thank you.

17 Q And, again, it's the ones we proposed, not
18 the ones you signed.

19 A Okay.

20 Q And my question is given the testimony and
21 the document you've just looked at, will you agree to
22 number 25?

23 A So, Ms. Walker, even in this document, it
24 just says, "An article by Mr. Ferak prompted a lot of
25 death threats to be directed at Mr. Colborn."

1 I'll agree to number 25 with my former
2 statement that I don't know if the article has
3 anything at all to do with the Avery case or if it's
4 an article about an unsolved hit-and-run.

5 Q Okay. That's helpful. Thank you. How many
6 death threats did you get because of any article that
7 Mr. Ferak wrote?

8 A You know, I didn't separate them into
9 categories of, Well, Mr. Ferak wrote this, so I got X
10 amount of death threats. I just kind of cataloged
11 them all. Several.

12 Q And you don't have really -- if I'm
13 understanding you, you don't really have any way of
14 knowing whether the death threats you received were
15 because of Mr. Ferak or because of something else?

16 A Oh, yes, I do. Sometimes they'd mention
17 Making a Murderer specifically, telling me that
18 Making a Murderer prompted them to call and --

19 Q Any other way?

20 A Well, I didn't receive any death threats
21 until after the release of Making a Murderer, and
22 Making a Murderer gave John Ferak most of his
23 material.

24 Q Okay. Any other way?

25 A No, that's it.

1 **Q So we've talked earlier today about a**
2 **statement --**

3 MR. BURNETT: That's getting pretty
4 close.

5 MS. WALKER: Yeah. Can you all still
6 hear? Okay. I'll keep going through it so we don't
7 waste time.

8 MR. BURNETT: How tall is this building?

9 MS. BARKER: We're on the 18th floor.

10 **Q I lost my train of thought. So we talked**
11 **earlier today --**

12 MR. BURNETT: It's a cheap tactic for
13 depositions.

14 MS. WALKER: You commissioned the Blue
15 Angels, is that it?

16 MR. BURNETT: Yeah.

17 **Q We talked earlier today about a statement**
18 **you made at the end of trial to the press. Do you**
19 **remember that?**

20 A Yes, I do recall that.

21 **Q And given the stipulation your counsel read**
22 **into the record, I assume you made that with the**
23 **permission of the sheriff's department, correct?**

24 A We're talking the end of Steven Avery's
25 murder trial?

1 Q Correct.

2 A Yes. The sheriff's department instructed me
3 to do it.

4 Q And did you know that that statement was
5 recorded and included in Episode 8 of Making a
6 Murderer?

7 A Well, having not watched Episode 8, no, I
8 don't know that statement was made.

9 Q And I'll --

10 A So I wouldn't know what context or anything.

11 Q I'll read the statement to you. You told
12 the press, I hope and pray that this verdict helps
13 put to rest any suspicions or loss of confidence that
14 this community may have felt towards our department
15 because I assure everyone that this agency has some
16 of the finest law enforcement officers in the country
17 in its employ.

18 I know you don't remember it word for word,
19 but does that sound like what you said?

20 A I certainly would have stood up for our
21 department, yes, and I certainly -- and still pray
22 for the Halbach family, so that sounds consistent.

23 Q Does it make you feel better to know that
24 that was included in Episode 8?

25 MR. BURNETT: Objection, form.

1 A I would have to watch Episode 8 and see in
2 which context -- how it was used. Like, was it used
3 to ridicule me? So then no, I wouldn't feel better
4 about how it was used.

5 **Q But you don't plan to watch Episode 8,**
6 **correct?**

7 A As I sit here right now today and talk with
8 you, no, I don't plan on watching Episode 8, but
9 certainly there's no reason I can't change my mind at
10 some point.

11 **Q Okay.**

12 MS. WALKER: Let's go to Exhibit 37.

13 (Exhibit 37-A marked for identification.)

14 A Do I have that one or no?

15 **Q I'm going to give it to you.**

16 A Oh, okay.

17 MS. WALKER: Sure. So Exhibit 37
18 collectively is Mr. Colborn's responses to
19 interrogatories in this case. I have marked the
20 different responses and supplemental responses and
21 signature pages as Exhibits 37-A, B, C, and D. It's
22 a little confusing given the way things kind of came
23 in.

24 **Q But let's start with Exhibit 37-A, which,**
25 **Mr. Colborn, I'll represent to you are the first**

1 A Like have I taken anything today?

2 **Q Yeah. Do you have --**

3 A I have acid reflux, so I took an antacid.

4 **Q Uh-huh.**

5 A I have asthma, so I have to take an inhaler
6 every morning. I'm on a medication for anxiety. I
7 can't give you the name of it. Not because I'm
8 trying to withhold it, because I don't know, but you
9 have my records. I believe I took one of those this
10 morning.

11 **Q Okay.**

12 MS. WALKER: It's nearly 1:00. I think
13 this is a good place to break and have lunch and come
14 back.

15 MR. BURNETT: Sure. What time do you
16 want to resume?

17 MS. WALKER: Let's go off the record.

18 MR. BURNETT: Let's go off.

19 THE VIDEOGRAPHER: Going off the record
20 at 12:54.

21 (Lunch recess held.)

22 THE VIDEOGRAPHER: We're back on the
23 record at 2:13.

24 **Q (By Ms. Walker:) All right, Mr. Colborn. I**
25 **have some wrap-up questions from items we were**

1 discussing before the lunch break, and the first one
2 is would you agree with me that your integrity had
3 been questioned and your reputation harmed at the
4 time of trial?

5 A Yes.

6 Q And you can't as you sit here today quantify
7 the reputational harm arising from trial and the
8 contemporaneous media coverage that came along with
9 the trial, can you?

10 MR. BURNETT: Objection, form.

11 A I can say after the verdict, my reputation
12 and everything went back to how it was.

13 Q How do you know that?

14 A Because after his conviction, the negative
15 press stopped, people began being more favorable
16 about the events of the trial, the unfolding of the
17 trial, the conviction. It was just a general
18 atmosphere that was more supportive.

19 Q So the publicity disappeared, but the
20 articles that were written remained out there,
21 correct?

22 A That were written during the trial?

23 Q Yes.

24 A I don't know when they archive those, but I
25 don't recall a blitzkrieg of negative press like

1 after the release of Making a Murderer after Steven
2 Avery's conviction.

3 Q You experienced sadness and anger and
4 frustration around the time of the trial, correct?

5 A I don't know per se sadness, but the other
6 two, yes.

7 Q Okay. Anxiety?

8 A I don't really recall anxiety.

9 Q What about distress at the time of trial?

10 A I can't differentiate between the two.

11 Q You can't differentiate between?

12 A Anxiety and distress. It seems to be one
13 and the same. I can't really say I was distressed;
14 more angry.

15 Q All right. Let's take a look at Exhibit 38,
16 which I will hand to you.

17 (Exhibit 38 marked for identification.)

18 A Okay. Thank you.

19 Q And I'll just ask you to confirm that this
20 is a text message exchange between you and Ms. Schuler,
21 and the date at the top there is July 2nd, 2017. Do
22 you see that?

23 A Yes.

24 Q And that was 18 months, approximately,
25 before Making a Murderer was released, correct?

1 are not going to have a Perry Mason moment here."

2 Did I read that correctly?

3 A Yes.

4 Q So Mr. Strang here is saying just because I
5 didn't ask Mr. Colborn directly did you plant
6 evidence doesn't mean we're abandoning the planted
7 evidence theory. Is that your understanding of what
8 I just read to you?

9 A No, not really.

10 Q Okay. We'll let the transcript speak for
11 itself, and we'll move on.

12 A Okay.

13 Q Did you ever sue Dean Strang?

14 A No.

15 Q Why not?

16 MR. BURNETT: Um...

17 Q I don't want to know about conversations
18 with your attorney. So if there's any reason other
19 than your attorney told you not to, I'd like to know
20 why you decided not to sue Dean Strang.

21 A There is no other reason than what you just
22 stated.

23 Q Do you understand that you can't sue people
24 for defamatory things they say about you in court?
25 And I'm not asking for what your attorneys have told

1 you. I'm just asking for your personal
2 understanding.

3 A Yes, I was made aware of that.

4 Q So it's possible, in your view, that Dean
5 Strang and Jerry Buting defamed you in court and
6 that's why you didn't sue them?

7 MR. BURNETT: Objection, form. I assume
8 it's subject to the same limitations previously
9 articulated --

10 MS. WALKER: Yes.

11 MR. BURNETT: -- to exclude
12 conversations with counsel?

13 Q Is that why you didn't sue them, because
14 even though you believed they defamed you, you can't
15 hold them accountable for things they say about you
16 in court?

17 MR. BURNETT: Same objection and
18 instruction.

19 A Since the only person I talked about that
20 with was an attorney, I guess I'm going to have to
21 decline to answer that.

22 Q Well, Mr. Buting went on to write a book
23 about the case, correct?

24 A He did.

25 Q And you believe that book hurt your

1 **reputation, correct?**

2 A I don't know. I never read the book.

3 Q **You have no sense at all about whether it**
4 **hurt your reputation?**

5 A I can surmise that it probably, yes, wasn't
6 complimentary.

7 Q **Well, you could --**

8 A But I didn't read it.

9 Q **And you could have sued Jerry Buting for**
10 **things he said out of court in a book, correct?**

11 A Correct.

12 Q **And why didn't you?**

13 MR. BURNETT: The same instruction.

14 A The only person I discussed that with,
15 Ms. Walker, was an attorney.

16 (Exhibit 43 marked for identification.)

17 Q **I'm going to hand you what's been marked as**
18 **Exhibit 43. This is an email from you to**
19 **Mr. Griesbach of January 8th, 2019. Do you see that?**

20 A I do see that, that it's from Mike Griesbach
21 to me, but I'm not exactly sure why it's -- like,
22 doesn't have any conversation between me and Mike
23 Griesbach. It appears to be an email between Mike
24 Griesbach and Brenda Schuler.

25 Q **Well, that's exactly right, actually, and I**

1 can give you some context here. So the bottom emails
2 are between Mr. Griesbach and Ms. Schuler.

3 A Okay.

4 Q And then I don't know what's behind that
5 redacted bar.

6 A Okay.

7 Q But I think that's where Mr. Griesbach spoke
8 to you directly and your counsel redacted it on the
9 theory that that's privileged information. But I
10 want to ask you about --

11 A Okay.

12 Q -- what Mr. Griesbach told Brenda. She
13 said, "I wish we could sue his slandering ass too."
14 Do you see that?

15 A Yes.

16 Q And then Mr. Griesbach said, "We've talked
17 about it... Andy, me, and another lawyer who was
18 almost on board a month ago. I'd love to sue Buting,
19 but it's a very bad idea strategically, even though
20 it would defeat federal jurisdiction. Can't further
21 explain now." Did I read that correctly?

22 A Yes.

23 Q And so here's Michael Griesbach telling
24 someone who is not his client about conversations he
25 had with you, correct?

1 A Yes, I do.

2 Q But unless Mr. Griesbach was in the room
3 with you or any of us sitting here today were in the
4 room with you, none of us can know with 100 percent
5 certainty, correct?

6 A I would think that I drove that point home
7 in the trial, and based on the subsequent conviction,
8 I believe the jury was convinced of it.

9 Q We would have to trust you, correct,
10 Mr. Colborn?

11 A Yes, you would have to trust that I was
12 telling the truth under oath.

13 Q And the jury found for the prosecution and
14 convicted Mr. Avery, correct?

15 A Yes, they did.

16 Q And the jury's findings were included in
17 Making a Murderer, correct?

18 MR. BURNETT: Objection, form.

19 Q Do you know?

20 A I have not watched a clip of or any of
21 Making a Murderer when the jury verdict is read or --
22 so I can't answer you positively. I don't know what
23 was included. I don't know what episode that was in.

24 Q You have no reason to dispute that it was
25 included, correct?

1 I'm not alleging that.

2 Q Okay. And you have no reason to believe
3 that anyone from Netflix attended any portion of any
4 proceeding against Mr. Avery, correct?

5 A I don't know that.

6 Q I'm asking you only based on your personal
7 knowledge, you don't have any reason --

8 A No.

9 Q -- to believe that?

10 A No, I do not.

11 Q So I'll take you back to Exhibit 1 that you
12 signed this morning, and if you could flip to
13 Exhibit A, which is the stipulations we proposed.

14 A One sec. I've got to find that. Okay.

15 Q And flip to Exhibit A, which is the initial
16 stipulations we proposed.

17 A Okay.

18 Q And I want to point you to the first
19 seven -- sorry, the first six. You declined to admit
20 these, and my question for you is as you sit here
21 today in your personal capacity, knowing that you
22 rely on your lawyers to process all the evidence, but
23 personally, let me ask you about number 1. Are you
24 personally aware of any evidence that any Netflix
25 employee attended any portion of any proceeding

1 **involving Steven Avery?**

2 A I personally do not know, correct.

3 Q **Number 2, do you have any personal knowledge**
4 **or are you personally aware of any evidence that any**
5 **Netflix employee has ever been to Manitowoc County,**
6 **Wisconsin?**

7 A During '16, '17 we had an abundance of
8 protests out in front of our courthouse with people
9 screaming how corrupt we were and how they should be
10 freed, and I thought Netflix was involved in that,
11 but I don't have any personal knowledge or evidence.
12 Like, no one ever brought someone to me and said,
13 "This person works for Netflix."

14 Q **Are you personally aware of any evidence**
15 **that any Netflix employee ever spoke to anyone who**
16 **appears in Making a Murderer?**

17 A I personally have no knowledge. I don't
18 know if they did or they didn't.

19 Q **Are you personally aware of any evidence**
20 **that any Netflix employee ever received or read any**
21 **transcript from any proceeding against Mr. Avery or**
22 **involving Mr. Avery?**

23 A Number 4, I believe I did see documents that
24 did say that Netflix employees had a few transcripts
25 of the criminal trial of Mr. Avery.

1 **Q Do you remember anything about those**
2 **documents?**

3 A No, I don't.

4 MS. WALKER: So we would just ask on the
5 record that to the extent those documents exist and
6 can be identified, that plaintiff produce them to us.

7 **Q Number 5 here, do you personally have any --**
8 **are you personally aware of any evidence that any**
9 **Netflix employee ever received or watched any raw**
10 **footage of any proceeding involving Mr. Avery?**

11 A I believe my attorneys do have evidence that
12 Netflix employees did view both civil and criminal --
13 or, yes, civil and criminal video of me testifying
14 both in deposition and in his criminal trial for the
15 murder of Teresa Halbach.

16 **Q Okay. Do you understand that to be raw**
17 **footage or footage that was produced by the**
18 **filmmakers and then provided to Netflix or do you not**
19 **know?**

20 A I don't know.

21 **Q Number 6, are you personally aware of any**
22 **evidence that any Netflix employee ever received or**
23 **watched any other raw footage used by the filmmakers**
24 **in creating Making a Murderer?**

25 A I personally don't know what they used,

1 so -- or watched, no.

2 Q So going back to Exhibit 2, the Second
3 Amended Complaint, and referring you to paragraph 46.

4 A Okay.

5 Q Actually, it will be on the -- on page 16,
6 the last --

7 A Okay.

8 Q -- of the bullet points, and you say that
9 among the things omitted from Making a Murderer, in
10 the last bullet here, was that Avery had a history of
11 extreme violence and sexual aggression against women,
12 including beating, strangulation, death threats,
13 attempted abduction at gunpoint, and allegations of
14 rape. Did I read that correctly?

15 A Yes.

16 Q All right. So let's take each of those in
17 that bullet one at a time. Do you know if there was
18 evidence presented at trial that Avery ever beat a
19 woman?

20 A I don't -- I don't know because I wasn't
21 allowed to attend the trial other than the day I
22 testified, so I don't know.

23 Q So if I told you that the judge excluded
24 that evidence, you would have no reason to dispute
25 me --

1 A No.

2 Q -- because you weren't there?

3 A Correct.

4 Q Okay. And so I take it you also don't know
5 if evidence came in at trial that Avery ever
6 strangled a woman?

7 A Do not know.

8 Q And you don't know if evidence came in at
9 trial that Avery ever made a death threat against a
10 woman?

11 A Again, not during the time I was testifying
12 did that come up.

13 Q You don't know if that evidence was
14 allowed --

15 A I don't know.

16 Q -- or not? And you don't know if the judge
17 allowed evidence to be presented to the jury that
18 Avery attempted to abduct a woman at gunpoint? You
19 don't know?

20 A I didn't see her testimony, but I believe
21 I'm aware that she did testify at his criminal trial,
22 the victim.

23 MS. WALKER: Let's go ahead and mark
24 Exhibit 57.

25 (Exhibit 57 marked for identification.)

1 Q I'm handing you what's been marked as
2 Exhibit 57, and as you can see from the front page
3 here, this is a cover letter and then an order on the
4 State's Motion to Allow the Introduction of Nine
5 Items of Other Acts Evidence. Do you see that?

6 A What page are we on?

7 Q The very first page --

8 A Okay.

9 Q -- of Exhibit 57.

10 A Yes, I see that.

11 Q Okay. And we can take some time to read
12 through this whole thing, but I can represent to you
13 that the -- in this order, the Court excluded
14 evidence regarding Avery's conviction related to his
15 having followed Sandy Morris in a vehicle, striking
16 her with his vehicle and forcing her off the roadway
17 and then pointing a loaded rifle at her and ordering
18 her to get out. That evidence was excluded in this
19 order. You don't have any reason to dispute that,
20 correct?

21 A No.

22 Q Okay. And you have no way of knowing
23 because you weren't there if the judge permitted
24 evidence to be presented to the jury that Avery had
25 raped a woman, correct?

1 A Correct.

2 Q And so if Making a Murderer didn't include
3 that evidence, that's consistent with what happened
4 at trial as far as you know, correct?

5 MR. BURNETT: Objection, form.

6 A Could you repeat? Sorry.

7 Q Yeah. If these things weren't included at
8 trial --

9 A Uh-huh.

10 Q -- and if Making a Murderer didn't include
11 them, then Making a Murderer was consistent with what
12 happened at trial, correct?

13 MR. BURNETT: Objection, form.

14 A I'm not going to agree that I --

15 Q Okay.

16 A -- believe that Making a Murderer was
17 consistent with what happened at trial.

18 Q Well, you can -- I think we can agree that
19 if we want to know what evidence was excluded, we can
20 look at this Exhibit 57, correct? That's the judge's
21 order?

22 A Yes.

23 Q Okay. So we talked about the exclusion from
24 the trial of the Sandy Morris incident, and I
25 actually want to play a clip for you now from Making

1 a Murderer. This will be from Episode 1, which we'll
2 mark in its entirety as Exhibit 58, and then the clip
3 we're about to play we'll mark as Exhibit 58-A.

4 (Exhibits 58 and 58-A marked for
5 identification.)

6 (Video playing.)

7 Q Had you ever seen that clip from Making a
8 Murderer?

9 A No.

10 Q Okay. So if you look back at Exhibit 57, I
11 can point you now directly to page 10, onto page 11,
12 where the Court excluded acts of recklessly
13 endangering the safety of Sandy Morris. And while
14 you look for that, I'll just ask you, isn't it true,
15 Mr. Colborn, that even though the judge did not
16 permit the jury to hear that evidence, Making a
17 Murderer included it?

18 MR. BURNETT: Objection, form.

19 A Yes. A portion of his inter -- a portion of
20 his interview with Detective Conrad and a very small
21 portion of her testimony was included in the clip you
22 showed me, yes.

23 Q And so in that sense at least, Making a
24 Murderer painted a less flattering picture of Steven
25 Avery than the jury was permitted to hear, correct?

1 MR. BURNETT: Objection, form.

2 A It would appear to me, based on the reaction
3 by people around the globe --

4 Q Well, I'm going to move to strike, and I'd
5 just ask that you answer my question, that this is a
6 very unflattering thing to publicize about Steven
7 Avery, not even the jury got to hear it because it
8 was so prejudicial according to the judge, but the
9 filmmakers put it in the documentary, correct?

10 MR. BURNETT: Objection, form.

11 A Yes, it was in the clip you just showed me.

12 Q You also complained in the Second Amended
13 Complaint that Making a Murderer portrayed an
14 incident involving animal abuse as an accident and at
15 worst a childhood prank. Do you remember that
16 allegation?

17 A Yes.

18 Q Okay. But you acknowledge that this story
19 about the animal abuse was omitted from Avery's
20 trial, correct?

21 A I don't know if it came up in his trial or
22 not.

23 Q Okay. Let me point you to Exhibit 57 again
24 and specifically page 7. There's a subhead, 1982 Act
25 of Criminal Cruelty Involving the Killing of a Cat.

1 **Do you see that?**

2 MR. BURNETT: What page are we on?

3 THE WITNESS: 7.

4 MS. WALKER: Page 7.

5 **Q And if you read to the end of that Section 3**
6 **in the Court's order, the last sentence is that "The**
7 **offered evidence fails all three parts of the**
8 **Sullivan test and is not admissible." Do you see**
9 **that?**

10 A What page is it where it mentions the
11 Sullivan test?

12 **Q On page 10 at the top.**

13 A Oh, 10. Okay. Are they talking about the
14 animal cruelty there, because it's shifted to
15 something else by then, but --

16 **Q So the animal cruelty section begins on**
17 **page 7 --**

18 A Uh-huh.

19 **Q -- and it goes through page 8, 9, and**
20 **concludes at the top of page 10.**

21 A All right. I see the area you're talking
22 about.

23 **Q So that animal cruelty evidence was excluded**
24 **from trial, correct?**

25 A It looks like it.

1 Q Did you know that Making a Murderer included
2 that story and showed it to viewers?

3 MR. BURNETT: Objection, form.

4 A No, I didn't.

5 Q Okay. Let's play that clip.

6 (Exhibit 58-B marked for identification.)

7 (Video playing.)

8 Q Had you ever seen that clip there?

9 A I have not.

10 Q So based on this clip and the one of Sandy
11 Morris, you would agree with me that viewers of
12 Making a Murderer got a more complete picture of
13 Mr. Avery's criminal history than the jurors did,
14 correct?

15 MR. BURNETT: Objection, form.

16 A I would agree that a watered-down version of
17 his acts were portrayed in Making a Murderer while
18 they weren't allowed in court.

19 Q So at least the viewers of the documentary
20 heard about him attacking a woman and burning a cat,
21 correct?

22 A Yes.

23 Q The jury didn't get to hear about that, did
24 they?

25 A No.

1 MS. BARKER: Excuse me, Counsel. Is
2 that clip 58-B?

3 MS. WALKER: Yes. Thank you.

4 Q So even though you've not watched Making a
5 Murderer, I want to make sure that you understand the
6 full scope of what it covers. Do you understand that
7 it documents the wrongful conviction for the Penny
8 Beerntsen rape?

9 A Yes.

10 Q And do you understand that it documents
11 Steven Avery's exoneration?

12 A I haven't watched an episode that -- in its
13 entirety, so I can't say how it's portrayed, but yes,
14 I understand that that's included in there.

15 Q And then you understand it documents the
16 investigation of Teresa Halbach's murder?

17 A Yes.

18 Q And Mr. Avery's trial for that murder?

19 A Yes.

20 Q And did you know it documents Mr. Dassey's
21 trial and conviction as well?

22 A I don't know that personally, but --

23 Q Is this the first you're ever hearing that?

24 A That Mr. Dassey's in there? No.

25 Q You knew he was featured in the documentary?

1 Q Okay. And you don't think their
2 perspective, their pro law enforcement world view,
3 keeps them from making a fair and objective
4 documentary I take it?

5 A No, I don't.

6 Q You're very pro law enforcement?

7 A Yes.

8 Q Pro military?

9 A Yes.

10 Q Conservative?

11 A Yes.

12 Q And you have a bias in that you are
13 100 percent convinced that Avery is guilty, correct?

14 MR. BURNETT: Objection, form.

15 A I don't have a bias that way. He was
16 convicted by a jury of his peers.

17 Q Well, he was --

18 A So I believe in that verdict, yes.

19 Q Okay. He was also convicted of rape,
20 correct?

21 A Yes.

22 Q And that jury verdict was flat-out wrong,
23 correct?

24 A Correct.

25 Q So juries can get it wrong, correct?

1 A Certainly.

2 Q And even if you lose this case, you're going
3 to believe that Mr. Avery killed Teresa Halbach,
4 correct?

5 A Yes.

6 Q Okay. And you believe Brendan Dassey was
7 involved in that crime, correct?

8 A Yes.

9 Q Ms. Schuler told us at her deposition that
10 the documentary she's making is going to be, quote,
11 very anti-Steven Avery, end quote. Did you know that
12 that is her goal and her perspective?

13 A No, I didn't know that.

14 Q Do you think there's any problem with making
15 a documentary that's very pro -- very anti-Steven
16 Avery?

17 A If she has factual information to back that
18 up, I don't have an issue with it.

19 Q So as long as she's factual and accurate,
20 making a very slant --

21 A And truthful.

22 Q -- and truthful, making a very slanted
23 anti-Avery documentary is just fine?

24 A I don't know --

25 MR. BURNETT: Objection, form.

1 once or is it every single time?

2 **Q Did what happen once?**

3 A This dramatic or suspenseful or cliffhanger
4 or music. Like once or twice, probably not grounds
5 for a lawsuit. Every single time one single person
6 appears, ah, that might be different.

7 **Q Okay. But it depends on context?**

8 A Yes.

9 **Q And we should view -- we should view the**
10 **documentary in its entirety; is that -- do you agree**
11 **with that?**

12 MR. BURNETT: Objection, form,
13 foundation, legal conclusion.

14 **Q Do you agree with that?**

15 A Yes.

16 **Q Okay. Episodes 1 through 10, correct?**

17 A Uh-huh.

18 **Q Let's go to Exhibit 35-H. And here I was**
19 **asking -- this is page 231 of Schuler's deposition,**
20 **and here I was asking her about some of the fallout**
21 **from Making a Murderer and the potential fallout**
22 **from -- for Convicting a Murderer. And at line 22 I**
23 **said to her, "But you'd agree with me that what the**
24 **crazy people out in the world decide to do shouldn't**
25 **stop filmmakers from making content." There was an**

CERTIFICATION PAGE

STATE OF WISCONSIN)

MILWAUKEE COUNTY)

I, PAULA M. HUETTENRAUCH, RMR, CRR,
Notary Public in and for the State of Wisconsin, do
hereby certify:

That prior to being examined, the
deponent named in the foregoing deposition,
ANDREW L. COLBORN, was by me duly sworn to testify
the truth, the whole truth, and nothing but the
truth.

That said deposition was taken before
me at the time, date, and place set forth; and I
hereby certify the foregoing is a full, true, and
correct transcript of my shorthand notes so taken and
thereafter reduced to computerized transcription
under my direction and supervision.

I further certify that I am neither
counsel for nor related to any party to said action,
nor in any way interested in the outcome thereof; and
that I have no contract with the parties, attorneys,
or persons with an interest in the action that
affects or has a substantial tendency to affect
impartiality, or that requires me to provide any
service not made available to all parties to the
action.

IN WITNESS WHEREOF, I have hereunto
subscribed my name this 28th day of July, 2022.

Paula Huettenrauch

Paula M. Huettenrauch, RMR, CRR
Notary Public - State of Wisconsin

My Commission Expires 8/18/2023



UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

ANDREW COLBORN,

COPY

Plaintiff,

-vs-

CIVIL ACTION NO. 19-CV-0484-BHL

NETFLIX, INC., ET AL.,

VOLUME II

Defendants.

CONTINUED VIDEOTAPED DEPOSITION OF

ANDREW L. COLBORN

DATE: July 22, 2022

TIME: 9:02 a.m. - 4:40 p.m.

LOCATION: Godfrey & Kahn, S.C.
833 East Michigan Street
Suite 1800
Milwaukee, Wisconsin 53202

REPORTED BY:
Paula Huettenrauch, RMR, CRR
365Reporting, LLC

VIDEOGRAPHER:
Jon Hansen, CLVS
Video Concepts
608.408.7411

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15 Moira Demos.

16 ***

17 ALSO PRESENT:

18 Debra Bursik, Paralegal

19 Moira Demos, Defendant

20 Laura Ricciardi, Defendant

21 Melinda LeMoine, Director, Litigation, Netflix, Inc.

1 us, quote, But there wasn't anything in the
2 documentary that I believed. Again, I didn't watch
3 it. To the extent Avery's accusations made it into
4 the documentary, those accusations didn't change my
5 opinion of Andy. That's not what caused our divorce,
6 end quote. Do you dispute that?

7 A Yes.

8 Q Which part?

9 A I believe I've already stipulated to this
10 whole marriage thing, so --

11 Q Correct. Should we rely on your
12 stipulation?

13 A Yes.

14 Q Okay. Anything else you dispute in that
15 statement?

16 A No, nothing beyond that.

17 Q Your ex-wife told us under penalty of
18 perjury, quote, This lawsuit also had an impact on
19 our marriage and exacerbated Andy's fixation. Andy
20 just couldn't let go of Making a Murderer and Avery's
21 accusations that he planted evidence to frame Avery
22 for the murder of Teresa Halbach, end quote. Do you
23 dispute what your ex-wife said there?

24 A No. That's one of the examples of how I've
25 changed. I can't let go of it.

1 Q Okay. Finally, she told us, quote, I wanted
2 to move on. I didn't want to let Avery or Making a
3 Murderer ruin our lives. Andy couldn't let it go
4 though. The lawsuit only did more damage to us, end
5 quote.

6 Do you dispute that?

7 A No.

8 Q Okay. So now we're going to go back to
9 Exhibit 1 and look at your stipulation number 45.
10 And you can set the list of names to the side.

11 A Okay.

12 Q So 45 says, "Some members of my law
13 enforcement community supported me after the release
14 of Making a Murderer but some did not," and you
15 requested before signing it that we add "some did
16 not." You recall that?

17 A Correct.

18 Q And so I'd like to know the names of people
19 within the law enforcement community who did not
20 support you.

21 A Well, I can't give you those names because I
22 don't know the -- the author of the article, but I
23 can give you the department.

24 Q Sure.

25 A Scotland Yard.

1 Q I don't need it. Mr. Colborn, would you
2 agree that almost by definition the people who left
3 those voicemails for you were unreasonable?

4 A Yes.

5 Q No reasonable person would react this way to
6 a documentary, correct?

7 A I've had reasonable people question me about
8 it, yes.

9 Q Well, that's not my question. No reasonable
10 person would watch a documentary and then call and
11 leave a death threat, correct?

12 A Well, I would hope not, but maybe your
13 definition of reasonable and mine might be different.

14 Q What about under your definition?

15 A I could see how someone could be so moved by
16 such a production that they may contemplate it.

17 Q Uh-huh. And follow through, you think
18 that's reasonable?

19 A No, I don't think it's reasonable.

20 Q Okay. So now I want to talk a little more
21 about Ms. Maurer. You didn't list her in your
22 interrogatory responses, and I think your explanation
23 for that yesterday was you haven't talked to her
24 about the facts -- underlying facts in this case or
25 this lawsuit, correct?

1 Q And I'm in Exhibit A --

2 A Okay.

3 Q -- of Exhibit 1, which is our initial
4 letter.

5 A Got it.

6 Q And I'm at number 63.

7 A Oh, okay. Okay.

8 Q So let me rephrase the question. You agreed
9 to number 61, and you agreed to number 62, that the
10 relationship with Ms. Maurer harmed your marriage and
11 it harmed your relationship with your children.

12 A Yes.

13 Q And I'm trying to understand how the -- how
14 you can deny that none of this caused you anxiety and
15 distress. Can you explain that?

16 A Well, I guess --

17 Q I can rephrase. Did the divorce cause you
18 anxiety?

19 A Sure.

20 Q Did the divorce cause you distress?

21 A I don't know about anxiety. So --

22 Q What's the word --

23 A I'm not exactly sure of the difference in
24 definition between the two, but I would say it
25 certainly caused me some distress, yes.

1 Q Did it cause you to take anxiety medication?

2 A I was already prescribed anxiety medication
3 long before this happened.

4 Q Did you take the anxiety medication because
5 you were anxious about the divorce and the impacts it
6 was having on your relationships?

7 A No.

8 Q Did it raise your blood pressure?

9 A Well, I'm on meds for hypertension, again,
10 long before the divorce came. So I don't frequently
11 check my blood pressure anymore.

12 Q Okay. Did it cause you to lose sleep or to
13 lose or gain weight or to drink alcohol more?

14 A No.

15 Q Any other form of distress it caused you?

16 A No.

17 Q Did it make you sad?

18 A Yes, of course.

19 Q How long was the period of difficulty before
20 you resolved things with your children?

21 A Probably from May of '21 through maybe
22 September of '21, so that time frame.

23 Q What happened in May? Is that when you told
24 your children you were divorcing?

25 A Yes. Yes.

1 Q Okay.

2 A Well, none of my children, with the
3 exception of the youngest one, lives in Manitowoc
4 County. The youngest one I told right away.

5 Q So you stipulated that you voluntarily
6 retired from the sheriff's department, correct?

7 A Yes.

8 Q And you stipulated you had a retirement
9 party, correct?

10 A Yes.

11 Q And people came to the party?

12 A Yes.

13 Q And you felt supported at that party?

14 A By the attendees?

15 Q Yes.

16 A I should mention the retirement party wasn't
17 just mine. There were three of us that retired the
18 exact same day, all from the detective bureau. So it
19 was a -- it was all of our parties, not just mine.

20 Q You felt supported at that party?

21 A Yes.

22 Q So if you can look at that Exhibit 1 and the
23 proposed stipulation number 49. Yeah, I think just
24 back a page or two there.

25 A Okay. Yeah.

1 correct?

2 A I don't recall having a resumé, no.

3 Q Okay. And so presumably you were hired at
4 the hospital based solely on your reputation; is that
5 right?

6 A Well, I filled out a job application online.
7 That's how I got the job.

8 Q Did you know the person hiring you?

9 A No.

10 Q Did Making a Murderer come up during the
11 interview?

12 A Yes.

13 Q Had the person who interviewed you watched
14 it?

15 A They didn't tell me whether they watched it
16 or not.

17 Q Okay. But the existence of the documentary
18 did not keep them from hiring you?

19 A Okay.

20 Q You got the job?

21 A That is correct, yes.

22 Q And you have good relationships with your
23 coworkers?

24 A Yes.

25 Q Have you taken any other job since retiring

1 A Yes, I see it.

2 Q You told the interviewer, "When I announced
3 my retirement, I received calls from tens, if not
4 hundreds, of people who thanked me or told me that I
5 had helped them through a difficult time or they were
6 glad that I did this or glad that I did that, and
7 numerous people have apologized to me for not coming
8 forward." Did I read that correctly?

9 A Yes.

10 Q So we had asked you to stipulate to the
11 following statement: "Upon announcing his
12 retirement, Mr. Colborn received supportive calls
13 from dozens of people." Here you said you received
14 calls from tens, if not hundreds, of people.

15 So my question is will you stipulate to that
16 statement? I'll read it again. "Upon announcing his
17 retirement" --

18 A Where is this statement?

19 Q Yeah, it's in Exhibit 1.

20 A In your --

21 Q My letter, number 51.

22 A Okay. Thank you. Okay.

23 Q Will you agree to that statement, having
24 seen where it came from?

25 A Yes.

1 MR. BURNETT: Wait until we get a copy.

2 Q Do you remember signing it?

3 A I don't even totally re -- the document
4 looks vaguely familiar. I'm not saying I didn't sign
5 it, but I don't recall it.

6 Q Okay. Do you remember ever feeling
7 obligated not to defend yourself publicly because of
8 any agreement you had with Ken Kratz?

9 A Well, no, not -- yeah, I don't -- I don't
10 know. I'm not sure what this is in reference to. I
11 know he was trying to do a project similar to
12 Convicting a Murderer but with a different production
13 company. So I'm assuming it might be related to that
14 but I'm not 100 percent positive, but if I had signed
15 it, I probably would have tried to uphold my end of
16 the agreement, but I don't recall signing it.

17 Q So as far as you know, it would just be your
18 relationship with Convicting and your obligations to
19 the sheriff's department along the lines of what you
20 stipulated to yesterday that prevented you from
21 defending yourself publicly; is that correct?

22 A Yes.

23 Q Okay. Do you recall telling the
24 interviewers for Convicting a Murderer that you were
25 inundated with requests by the media for interviews?

1 And I can point you to a document, but I'll ask --
2 before we take that time, I'll just ask if you
3 remember that.

4 A Is it Number 8 again?

5 Q It is.

6 A Okay.

7 Q Page 353.

8 A Thank you.

9 Q It's the third box.

10 A Okay. I'm there.

11 Q That third box begins, "The story,
12 unfortunately, was not over. I thought it was over,
13 but it wasn't. Interestingly, after the guilty
14 verdict came out, I was inundated with requests by
15 the media for an interview." Did I read that
16 correctly?

17 A Yes.

18 Q And you testified yesterday that except for
19 that initial press statement that your department
20 authorized you to give, you've never spoken to the
21 media or anyone publicly about the accusations you
22 believed were levied at you, correct?

23 A Not that I recall.

24 Q Okay. Mr. Colborn, you are -- let me ask
25 this. Do you understand the downsides that had for

1 dollar figure on it.

2 **Q Okay.**

3 A I would need a jury to make that
4 determination.

5 **Q What about Jerome Buting, can you put a**
6 **dollar figure on how much he's harmed your**
7 **reputation?**

8 A That would be the same answer.

9 **Q And Kathleen Zellner?**

10 A Kathleen Zellner? She hasn't -- so she's
11 flipped from different theory to different theory.
12 Now law enforcement isn't even a suspect anymore.
13 Plus, this is being used in the course of the defense
14 of her client, so I would have no standing in that.

15 **Q What about Dean Strang, can you put a dollar**
16 **figure on how much he's harmed your reputation?**

17 A I would just repeat the same answer that I
18 gave you for Jerome Buting and John Ferak.

19 **Q Okay. Mr. Colborn, my last few pages here**
20 **is about your medical records, and I'm going to try**
21 **not to go through them one by one in the interest of**
22 **time. So I'll just ask you a couple questions, and**
23 **then we'll see how deep we have to go into these.**

24 A Okay.

25 **Q Isn't it true that you were not prescribed**

1 anxiety and hypertension medication until two weeks
2 after you filed this lawsuit, December 28th, 2018?

3 A That's two different prescriptions.

4 Q Yeah. I can ask it this way. Isn't it true
5 you weren't prescribed anxiety medication at any
6 point before you filed this lawsuit?

7 A I don't recall the date I was prescribed.

8 Q Well, you didn't go on anxiety medication
9 when Making a Murderer was released, correct?

10 A No.

11 Q And you didn't go on anxiety medication that
12 first year when you have told us you were
13 experiencing all this backlash from Making a
14 Murderer, correct?

15 A Correct.

16 Q And you didn't go on it 2 -- within the
17 second year after its release in 2017, correct?

18 A Do you have my medical record there so I can
19 look at the date?

20 Q Yeah. Exhibit 120.

21 (Exhibit 120 marked for identification.)

22 A Thank you.

23 Q Uh-huh. So --

24 A Where is the date?

25 Q Yeah, I'm trying to find it for you. So the

1 date is about halfway down the page. It says Today's
2 Visit. You saw Theresa Krueger-Junk, Nurse
3 Practitioner, on Friday, December 28th of 2018. Do
4 you see that? And then above there it says you
5 started taking buspirone and isinopril.

6 A Lisinopril.

7 Q Thank you.

8 A Yes.

9 Q Okay.

10 A Yeah, I see the -- I see the date.

11 Q Okay. And does that jog your memory as to
12 whether it was December 28th, 2018 when you first
13 started taking those medications?

14 A Yes.

15 Q Okay. So not one, not two, but three entire
16 years after Making a Murderer was released, correct?

17 A Correct.

18 Q And, in fact, it was filing the lawsuit that
19 seemed to raise your anxiety levels; is that correct?

20 A No.

21 Q Well, the lawsuit was filed in December
22 2018, and about eleven days later is when you went on
23 these anxiety and blood pressure medications,
24 correct?

25 A I would have to check on the blood pressure

1 because I thought it was a preceding visit, but I'm
2 not 100 percent positive, but certainly I was on them
3 by this visit. It was the fact that this just was
4 never going away probably --

5 **Q Okay. When do you think you went on --**

6 A -- is the greatest --

7 **Q Oh, I didn't mean to interrupt.**

8 A That's okay.

9 **Q When did you think you went on blood**
10 **pressure medication?**

11 A So because I have asthma, I have to have a
12 visit every six months as opposed to a year. So I
13 thought it was the six-month visit before that that I
14 would have gone on blood pressure medication.

15 **Q When would that have been approximately, the**
16 **date?**

17 A Well, I'm assuming June of '18.

18 **Q Okay. Does asthma tend to cause high blood**
19 **pressure; do you know?**

20 A My asthma's pretty well controlled, but I
21 don't -- I don't know if hypertension is a by-product
22 of having asthma, for lack of a better word.

23 (Exhibit 117 marked for identification.)

24 **Q Okay. I'm going to hand you what we've**
25 **marked as Exhibit 117. This is another medical**

1 record. You can see about a third of the way down
2 the page the date of this visit was December 14th,
3 2018, which would have been three or four days before
4 you filed the lawsuit in this case. Do you see that?

5 A Okay.

6 Q And if you flip to the second page, at the
7 very bottom there's a note that says, "Informed
8 patient his blood pressure is slightly elevated.
9 Discussed diet/salt restriction/exercise. He will
10 monitor blood pressure at home and follow up if he
11 notices it stays elevated." Did I read that
12 correctly?

13 A Yes, you did.

14 Q Does this jog your memory that --

15 A Yes.

16 Q -- this was maybe the first time you had
17 elevated blood pressure?

18 A Correct. So --

19 Q Three days or four days before you filed the
20 lawsuit?

21 A Correct.

22 (Exhibit 112 marked for identification.)

23 Q Okay. I'm going to hand you Exhibit 112.
24 This is another medical report.

25 A Okay.

1 Q This is from February 2018. Do you see that
2 at the top?

3 A Where it says dictated on 2/9/18 or no?

4 Q I was looking at filed on 2/12/18, but --

5 A Okay.

6 Q -- it says you were seen on 2/9/18. So
7 anyway, February '18, correct?

8 A Yes.

9 Q Okay. If you could flip to the third page.

10 A Is it page 155 that you want?

11 Q Yeah, and also 156.

12 A Okay.

13 Q You see it's just --

14 A Got it.

15 Q -- off by one. So this would have been two
16 and a half years or so after Making a Murderer's
17 release, two years? Do you see that?

18 A Yes.

19 Q Okay. And you filled out two screening
20 questionnaires. One was the Depression Questionnaire
21 where zero means not at all and 3 is nearly every
22 day, and you scored a 1 out of, I think, 30 points
23 here. There's ten items. Does that sound right to
24 you?

25 A Yes.

1 Q Okay. So that's a very low score on the
2 Depression Scale, correct?

3 A Yes.

4 Q Okay. And you were being honest when you
5 completed this questionnaire?

6 A Maybe. I don't know if I was honest or not.
7 I didn't want to be put on any sort of medication.

8 Q Okay. Well, this is --

9 A So I may have stretched things, but I would
10 think that for the most part I was honest.

11 Q Okay. This is the only -- medical records
12 are the only evidence we have of your alleged
13 anxiety, correct?

14 A Correct.

15 Q Okay. The second questionnaire is the GAD,
16 which is the General Anxiety Disorder questionnaire.
17 Again, zero means no anxiety at all, and in every
18 category you put a zero, correct?

19 A Correct.

20 Q Okay. On the next page, toward the bottom,
21 in all caps there's a word that says PSYCH with a
22 colon. Do you see that?

23 A Is it on 157?

24 Q Uh-huh.

25 A No, I don't see that.

1 Q I think -- so do you see there's -- there's
2 page 156 of the medical report and then there's
3 COLBORN 157?

4 A Yeah, I have --

5 Q So look at --

6 A Oh, I see. Okay.

7 Q Look at COLBORN 157.

8 A Yeah, that's the page I have, COLBORN 157.

9 Q Correct. And so do you see right here PSYCH
10 at the top?

11 A Okay.

12 Q It's actually at the top and the bottom,
13 PSYCH?

14 A Yes.

15 Q It says, "Denies anxiety, depression, or
16 mania."

17 A Yes.

18 Q Do you see that?

19 A Yes.

20 Q And that's accurate, correct?

21 A It's accurate that I denied telling her I
22 had it, yes.

23 Q Uh-huh. Okay. And, again, all we have to
24 go on in terms of your anxiety and distress and
25 emotional distress is your medical records, correct?

1 MR. BURNETT: Let me object to the form
2 of the question. Go ahead.

3 Q And your testimony here today, that's all
4 we've got, correct?

5 A Correct.

6 Q Okay. I don't think I've given you
7 Exhibit 123, but I'm about to.

8 A Okay.

9 (Exhibit 123 marked for identification.)

10 Q And this is another medical record. You can
11 see at the top under Encounter Information, it says
12 2/20 of 2019. Do you see that?

13 A Yes.

14 Q Okay. About a year later; is that right?

15 A Yes.

16 Q Okay. Go to the second page of that
17 document. At the very top it says Anxiety. Do you
18 see that word?

19 A Yes.

20 Q And you told the doctor your personal
21 situation had improved. Do you see that?

22 A Uh-huh.

23 Q Okay. And then there's on that same page
24 another Generalized Anxiety Disorder Questionnaire.
25 Do you see that?

1 A Yes.

2 Q And you put mostly zeros. You scored a 2
3 out of a possible 21 points. Do you see that?

4 A Uh-huh. Yes.

5 Q Okay. You were accurate in answering that
6 questionnaire?

7 A Yes.

8 MS. WALKER: All right. So let's go off
9 the record. I think I'm done, but I just want to
10 check my notes.

11 THE VIDEOGRAPHER: Going off the record
12 at 10:59.

13 (Brief recess held.)

14 THE VIDEOGRAPHER: We're back on the
15 record at 11:18.

16 MR. BURNETT: Kevin, can I go ahead and
17 make that statement before you start?

18 MR. VICK: Sure.

19 MR. BURNETT: We've had a chance to
20 discuss the time arrangement off the record, and I
21 suspect we've exceeded the general rule for seven
22 hours. I've talked to Mr. Vick, and I'm going to let
23 him continue to question Mr. Colborn with the
24 recognition that most of his questions are going to
25 be in the -- on the subject matters -- on subject

1 the last question, the question before it?

2 Q Oh, sure.

3 A Can I have that read back to me --

4 Q Yeah.

5 A -- please?

6 Q Do you agree that Mr. Kratz was asking
7 questions here to make it clear that this call didn't
8 motivate you to frame Mr. Avery for the murder of
9 Ms. Halbach?

10 A Yes.

11 Q And to make clear that you didn't plant
12 evidence against Mr. Avery?

13 A I don't know if this had anything to do with
14 planting evidence. He was -- well, I guess if we go
15 on to the next page, yes. I'm only -- I'm only on
16 47. Are we including 48?

17 Q Oh, to be clear, I was asking about 47 and
18 48.

19 A Okay.

20 Q If you'd like a moment to review, that's
21 fine.

22 A Okay. I got it. Yes, that came up as well.

23 Q Is there anything I'm missing here that you
24 would say is, you know, a crucial point in your
25 testimony?

1 MR. BURNETT: Objection, form.

2 A They -- to start off, they eliminated the --
3 my identification of myself when I answered the
4 phone. I answered the phone. I said, "Manitowoc
5 County Jail, Officer Colborn." I didn't identify
6 myself as a deputy. By eliminating that, people
7 watching this -- and I'm dressed in a law enforcement
8 uniform, when I'm testifying, people automatically
9 assume that when I was working in '94, '95, I'm a
10 sworn law enforcement officer by eliminating that,
11 because if I was a sworn law enforcement officer, my
12 answering the phone would have been Manitowoc County
13 Jail, Deputy Colborn, but I wasn't a deputy at the
14 time. I'm a non-sworn corrections officer. So
15 people now are like, Hmm, he's a law enforcement
16 officer but he doesn't do nothing with this
17 information.

18 Q And is that why you transferred the call to
19 the detectives --

20 A Correct.

21 Q -- detective and the sheriff?

22 A I had no authority to --

23 MR. BURNETT: You've got to let him
24 finish.

25 COURT REPORTER: Yeah, I missed the end

1 of your question, Kevin.

2 THE WITNESS: I'm sorry.

3 Q Is that why you transferred the call to the
4 sheriff's office?

5 MR. BURNETT: Go ahead.

6 A Well, the jail is part of the sheriff's
7 office, but that's why I transferred the call to an
8 investigator, yes, sir.

9 Q Do you know if that fact is reflected in
10 Making a Murderer, that you transferred the call to a
11 detective? I'm not quizzing you on the contents of
12 that, Mr. Colborn. I'm just asking if you know.

13 A I don't know if it's in Making a Murderer or
14 not.

15 Q Let's --

16 A And I --

17 Q Let's look at a different clip.

18 A Okay.

19 Q This is Episode 7 still, and I'm looking at
20 minute 17, second 36 to minute 19, second 10. Am I
21 still sharing? Yes.

22 (Video playing.)

23 Q So the clip that we just saw, Mr. Colborn,
24 that makes clear that you received this call in 1994
25 or '95 when you were a corrections officer, right?

1 wishy-washy about that, pretty unsure of himself.
2 For instance, "Have you ever planted any evidence
3 against Mr. Avery?" my response at trial was, "That
4 is ridiculous, no, I have not." And then the second
5 question Mr. Kratz asked me, "Have you ever planted
6 any evidence against anybody in the course of your
7 law enforcement career?" that whole question is
8 eliminated. Instead, it looks like I answered, "Have
9 you ever planted evidence against Mr. Avery" by
10 saying, "I have to say this is the first time my
11 integrity has been questioned." That doesn't come
12 across very forceful or convincing. It's hardly
13 answering the question. So I don't believe that's an
14 accurate portrayal.

15 **Q Did you feel that accusations that you**
16 **planted evidence against Mr. Avery were calling into**
17 **question your integrity?**

18 **A** The question was have you ever planted any
19 evidence against anybody in the course of your law
20 enforcement career. That's my answer to that
21 question.

22 **Q Mr. Colborn, I'm going to move to strike.**
23 **That wasn't my question.**

24 **My question is leaving this for a second,**
25 **did you feel that accusations against you that you**

1 planted evidence against Mr. Avery, that that called
2 into question your integrity as a law enforcement
3 officer?

4 A Yes.

5 Q And do you feel like this scene shows you
6 denying that you planted any evidence against
7 Mr. Avery?

8 A I'm sorry. The scene on Making a
9 Murderer --

10 Q Sure.

11 A -- that you just showed me?

12 Q The clip we just -- we just --

13 A Is that what you are asking about?

14 Q The clip we just looked at, you deny having
15 planted any evidence against Mr. Avery, right?

16 A Yes.

17 Q Okay. Last one. If you could move on to
18 page 52 of Exhibit B.

19 A Okay.

20 Q And what I'm interested in here is where it
21 starts, oh, maybe a quarter of the page down, it says
22 Redirect Examination.

23 A Okay. I see it.

24 Q So just looking at that section.

25 A Okay.

1 A Yes.

2 Q -- that Dean Strang asked about this subject
3 matter during his cross-exam.

4 A Yes.

5 Q And then Mr. Kratz on redirect wanted to
6 respond to some of the points that Mr. Strang had
7 raised, right?

8 A Yes.

9 Q Mr. Kratz wanted to make clear that you
10 hadn't written a report about the call in 1994 or
11 '95?

12 A Yes.

13 Q And that if you had written a report you
14 wouldn't have known what it was about; is that right?

15 A Correct.

16 Q That you didn't know the call was even about
17 Mr. Avery, right?

18 A Correct.

19 Q Is there anything I'm missing here that's
20 key to understanding your testimony?

21 MR. BURNETT: Objection, form.

22 A I explained in the presence of -- all these
23 questions were in the presence of the jury. I
24 explained in the presence of the jury my reason that
25 I didn't write a report has been eliminated from my

1 testimony. It just simply says, "I don't know what
2 it would have been about," and that was actually a
3 question, "that I received a call and transferred it
4 to the Detective Division." There would have been no
5 need to write a report every time you receive a
6 telephone call and transfer it. Certainly there's no
7 agency on the face of the Earth that does a report
8 about that, and that whole explanation has been
9 eliminated from my testimony there.

10 Q Let's take a look at the clip.

11 A Okay.

12 Q And this is still in Episode 7. It's at
13 minute 23, second 48 to minute 24, second 5.

14 (Video playing.)

15 Q So the clip that we watched, again, it made
16 clear that you didn't write a report in 1994 or '95
17 about the call, correct?

18 A Yes.

19 Q That if you had written a report, you
20 wouldn't have known what it was about, right?

21 A Correct.

22 Q And we can agree that the line about whether
23 you knew the call was about Mr. Avery, that's not in
24 this clip, right?

25 A Correct.

1 Steven Avery case with the first episode airing
2 tonight," right?

3 A Yes.

4 Q I'm looking down at about the fifth line in
5 the middle. Do you see where it begins and it says,
6 "I didn't know Steven Avery"?

7 A Yeah. Yes.

8 Q I'll read that. It says, "I didn't know
9 Steven Avery from Adam until two years into my
10 employment with MTSO in 1994, and then only by name."
11 Did I read that correctly?

12 A Yes.

13 Q Does that refresh your recollection that it
14 would have been in 1994 when you first heard the name
15 Steven Avery?

16 A I see it has 1994 on that. I believe that's
17 a typo. I don't recall anything in '94 when I was
18 working in the jail as it pertained to Steven Avery.
19 I really don't.

20 Q You just told me that your employment began
21 with the Manitowoc Sheriff's Office in 1994, right?

22 A No, '92.

23 Q '92 rather, yes. In '92, correct?

24 A '92, yes.

25 Q But this sentence says, "I didn't know Steve

1 Avery from Adam until two years into my employment
2 with MTSO in 1994," right?

3 A Right.

4 Q So wouldn't that timeline be correct then?

5 A Well, the timeline is correct, but I -- I
6 was confusing it with something, I guess. I don't
7 recall -- I can't sit here and tell you how I heard
8 the name Steven Avery in 1994 because I don't recall.

9 Q But you would agree with me that that's what
10 it says here in this email that you wrote in 2015?

11 A Yes, I agree with you that's -- yes, sir.

12 Q Do you remember what you heard the first
13 time that you heard about Steven Avery?

14 A Well, my recollection is the first time I
15 heard about Steven Avery was in '96.

16 Q Okay. We've talked about the timing --

17 A Uh-huh.

18 Q -- and that you're saying you think it's
19 1996 despite the fact this document is saying 1994.

20 A Yes.

21 Q I want to move on to the question of what
22 did you hear when you first heard Steven -- about
23 Steven Avery, regardless of the time of when that
24 occurred.

25 A Okay.

1 So I thought it's probably a current jail inmate. He
2 didn't give me a name, and I said -- again, I
3 identified myself as a corrections officer. He
4 recognized that I wasn't a law enforcement officer
5 and that he had called the jail. So I either told
6 him, "I think you're going to probably want to talk
7 to a detective" or he said, "Can you connect me to a
8 detective?" And I gave him the number to which I was
9 transferring him, and then I transferred it to our --
10 the chief investigator, which that position has
11 changed to a lieutenant. But at the time his rank
12 was CI, chief investigator, and I transferred it to
13 his office phone.

14 **Q Who was the chief investigator at that time?**

15 A Gene Kusche.

16 **Q And that's whom you transferred the call to?**

17 A Yes, sir.

18 **Q Did the caller from the other county --**

19 A Uh-huh.

20 **Q -- did they mention anything about the**
21 **nature of the underlying crime?**

22 A All they said was assault, which could be a
23 bar fight, it could be a DVO.

24 **Q And location, they -- they -- he told -- was**
25 **it a he?**

1 looked at earlier, which was the statement you
2 prepared on September 12th?

3 A Yes.

4 Q Now -- so would you agree that based on this
5 document, at least what this document purports to say
6 is that your statement was, in fact, kept in the
7 sheriff's department safe?

8 A Yes.

9 Q And yesterday you stipulated to that fact,
10 right?

11 A Yes.

12 Q Okay. Now, you said that James Lenk had
13 given some incorrect information to Sheriff Petersen?

14 A Yes.

15 Q How do you know that?

16 A The paragraph that reads, "Sergeant Colborn
17 said he was later informed by someone that the case
18 was already solved and the right person was
19 arrested." I never said that.

20 Q And how do you know that that's what he
21 passed on to Sheriff Petersen?

22 A I'm reading it off his statement, so -- I
23 wasn't there when he -- I don't know what he said
24 verbally to the sheriff.

25 Q That was going to be my question, is whether

1 the lawsuit. The other two I don't believe so.

2 Q How much of Making a Murderer would you
3 estimate that you watched before you filed the
4 lawsuit?

5 A Like in what context? Minutes?

6 Q Sure, minutes.

7 A Less than 30.

8 Q How about as you sit here today, do you have
9 a sense of total number of minutes? And if you want
10 to give me a range, that's fine.

11 A 45 to 60. Probably less than 60. 30 to 45.

12 Q Is that -- so you've only -- let me make
13 sure I'm understanding this correctly. Have you
14 watched 30 to 45 more minutes or is it still 30 to
15 45 minutes total, meaning --

16 A No.

17 Q -- you've only watched an extra --

18 A 30 to 45 more minutes, additional minutes.

19 Q Oh, okay. Gotcha.

20 A Sorry.

21 Q So then it's a total of like an hour to hour
22 15?

23 A Possibly, yes.

24 MR. VICK: Okay. This is a good time to
25 take a break.

1 said, "Well, we're going to get a game plan together.
2 We might bring in one more detective, and we're going
3 to wait until he shows up." I said, "Well, by now,
4 they might start to realize that this girl's missing.
5 I'm going to go sit on the Zipperers' residence until
6 you guys are ready to go out." So I sat in a
7 different patrol car, because I had a marked unit. I
8 had to turn that back over, I think. I don't believe
9 I took a marked unit out there, but I might have.
10 And I sat in the parking lot of a church. And
11 there's a point that Brenda thinks Dave Remiker asked
12 me to run the plate and that's when I called it in,
13 but I don't believe that to be the case, but I didn't
14 argue with her that it isn't possible.

15 **Q You're just not sure?**

16 A I'm relatively sure I called it in at 18:37.
17 I seem to remember doing that. But I'm not saying
18 her theory isn't impossible.

19 **Q Let's look at Exhibit 1114.**

20 (Exhibit 1114 marked for identification.)

21 **Q Is this another text chain between you and**
22 **Brenda Schuler?**

23 A I don't know why it says it -- like, theirs
24 has my phone number. This says LT ALC, but the date
25 is 2020, so I'm out of law enforcement by that time.

1 Strang.

2 Q I think you're right, but you made two of --
3 you made two denials that we saw in that clip
4 earlier, right?

5 A Yes.

6 Q I'd like you to look at Exhibit 2, which is
7 the -- your Second Amended Complaint.

8 A Oh, I actually have that one handy for once.

9 Q And I'd like for you to look at paragraph
10 33, and I'll read the paragraph.

11 A Okay.

12 Q It says, "A central part of Avery's defense
13 at trial was that Plaintiff and other Manitowoc
14 officers planted Halbach's HUV" [sic] "at the Avery
15 Salvage Yard where Avery resided in a house trailer.
16 With Plaintiff on the stand, Avery's attorneys played
17 portions of his call to dispatch in an effort to
18 convince jurors that he came upon the SUV at an
19 undisclosed location on November 3rd, two days before
20 it was found at the salvage yard. Cross examining
21 Plaintiff about the contents of the call, Avery's
22 attorneys suggested that Plaintiff was looking
23 directly at Halbach's vehicle when he called
24 dispatch. The claim is entirely baseless and false,
25 and Defendants knew of its falsity." Did I read that

1 **right?**

2 A Yes.

3 **Q What is the basis for your allegation that**
4 **defendants knew of the falsity of this central part**
5 **of Avery's defense?**

6 MR. BURNETT: Objection, foundation.
7 Go ahead.

8 A They were sitting in the courtroom and saw
9 my complete unedited testimony.

10 **Q Now, you were alone when you made the call**
11 **to dispatch you said, right?**

12 A Yes.

13 **Q So you're the only one that would know for**
14 **certain whether or not you were looking at Teresa**
15 **Halbach's car when you made that call, correct?**

16 A Yes.

17 **Q And Avery's --**

18 A I don't have an eyewitness with me, no.

19 **Q And Avery's attorneys were suggesting the**
20 **opposite, right?**

21 A I wasn't really sure what Avery's attorneys
22 were suggesting, and I don't want to speculate or
23 tell you that that's what they were doing because I
24 don't know.

25 **Q But your testimony at trial and your**

1 Q But it's a sentiment that some people were
2 saying at the time, right?

3 MR. BURNETT: Objection, foundation.

4 A Yeah.

5 Q It's a sentiment that some people expressed
6 to you at the time?

7 A Uh-huh. Yes.

8 Q So then, Mr. Colborn, how can you say that
9 my clients knew that Avery's defense attorneys'
10 theory was false?

11 MR. BURNETT: Objection, form.

12 A For the reason that I said. They sat in the
13 courtroom the entire time, so they were privy to
14 information that the average citizen wouldn't have.

15 Q What was that information?

16 A Again, we had a gag order. So when people
17 would ask me that question, I always had to say, "We
18 can't discuss the case." There was a lot of people
19 that didn't know for a long time that Brendan Dassey
20 had confessed to investigators and then investigators
21 were able to locate evidence based on Brendan's
22 confession. People may not have known that the
23 murder weapon was hanging over his bed. People may
24 not have known her bones were in his backyard after
25 he mutilated her and burned her up in his pit. They

1 needle."

2 A Yes.

3 Q "The hypodermic needle hole in this case was
4 made when a specimen of Avery's blood was drawn by a
5 phlebotomist and stored in the vial in connection
6 with a 1996 post-conviction motion in his wrongful
7 conviction case. The procedure necessarily resulted
8 in the creation of a hole in the rubber stopper. The
9 phlebotomist who drew the specimen from Avery in 1996
10 was prepared to testify that's what happened in this
11 instance." Did I read that correctly?

12 A Yes.

13 Q What is the basis for your allegation in the
14 next sentence which is, "Having attended the trial in
15 its entirety, Defendants Ricciardi and Demos were
16 aware of the routine nature of the hole on the vial's
17 rubber stopper and that the phlebotomist who drew the
18 specimen from Avery was prepared to testify."

19 MR. BURNETT: Objection, foundation.

20 Q Or let me rephrase that. Do you have a
21 personal knowledge basis for making the allegation in
22 that sentence I just read?

23 A I'm personally aware that your clients were
24 in the court for its entirety, and I've seen the
25 Making a Murderer episode where it's portrayed as a

1 great day for the defense when they discovered this
2 vial that I'm assuming could have only been filmed by
3 your defendants -- your clients I mean. I'm sorry.

4 Q Would it surprise you to learn that they
5 didn't film it?

6 A Yes, it would.

7 Q Do you recall that Norm Gahn is in there, in
8 that section, when it's being discovered?

9 A I viewed the portion where Jerome Buting is
10 making a call to co-counsel.

11 Q Do you recall a little bit later Norm Gahn
12 is in it too, who is one of the prosecutors?

13 A I know who Norm Gahn is, but I didn't view
14 that portion of it.

15 Q So why do you think that my clients were
16 aware of the routine nature of the hole on the vial's
17 rubber stopper and that the phlebotomist who drew the
18 specimen from Avery was prepared to testify?

19 MR. BURNETT: Objection, foundation.

20 Q Do you have any personal knowledge to
21 support that portion of the allegation?

22 A I don't recall the motion hearing where that
23 was discussed, if I was present or not, so I can't --
24 again, a lot of these documents are the work product
25 of my counsel. I didn't compile all this information

1 and Deputy Kucharski, can you understand how they
2 might have some uncertainty about your three's
3 explanation about how the key came to be found that
4 day?

5 MR. BURNETT: Objection, form,
6 foundation.

7 A I don't have an instinctive distrust of law
8 enforcement. I trust law enforcement because I was
9 in it for 27 years. So I like to think that my
10 testimony and when I say something, people understand
11 that I'm under oath and I'm saying the truth. If I
12 don't know the answer to a question, I say I don't
13 know.

14 Q But can you understand how people who didn't
15 know you personally, I'm not saying that they
16 necessarily think that you're lying, but how they
17 could walk away from hearing the explanation of how
18 the key was found and just say, "I'm not sure what
19 happened"?

20 MR. BURNETT: Objection --

21 Q Can you understand that?

22 MR. BURNETT: Objection to form and
23 foundation.

24 A My explanation at trial was the only
25 possible way I could think that that key got to where

1 A Correct.

2 Q And Ms. Walker talked yesterday about
3 certain things regarding a number of Mr. Avery's
4 prior crimes that were not presented to the jury
5 also, right?

6 A Yes. We talked about that yesterday, yes.

7 Q So I won't repeat the stuff that you went
8 over yesterday, but I did want to talk about some
9 other things that are included in Making a Murderer
10 that present Steven Avery in a negative light that
11 were not even presented to the jury but are reflected
12 in Making a Murderer.

13 Are you aware that Making a Murderer
14 includes Chuck Avery's statement that after Brendan
15 Dassey's confession, he was, quote, pretty positive,
16 end quote, that Steven probably had murdered Teresa
17 Halbach?

18 A No, I haven't seen that.

19 Q And Chuck Avery is Steven Avery's brother,
20 right?

21 A Yes.

22 Q Are you aware that Making a Murderer
23 includes a scene where Barb Tadych tells Steven Avery
24 that she hopes he burns in hell for what he did?

25 A Her name might be pronounced "Todd-ick," but

1 no, I'm not aware of that.

2 Q Are you aware that there is a scene in
3 Making a Murderer where Steven Avery tells his
4 parents that if they didn't figure out how to get him
5 out on bail within two weeks, he was going to give up
6 and kill himself?

7 A No, I'm not aware of that.

8 Q Are you aware that there's a scene in Making
9 a Murderer where Steven Avery himself opines that the
10 prosecution was, quote, going to win anyway?

11 A No, I'm not aware of that.

12 Q Are you aware that Making a Murderer
13 contains interviews with some people who say violent
14 crime was in Steven Avery's character and others who
15 say it was not?

16 A Well, I have seen interviews where people
17 say that the police did it on Making a Murderer. I
18 haven't seen any clips or any video where people are
19 saying that they believe they -- law enforcement got
20 it. So I'm unaware of that.

21 Q I'm really trying to limit the number of
22 clips I show you given our time crunch.

23 A Sure.

24 Q So I'm going to pose these instead rather as
25 questions.

1 A Okay.

2 Q Are you aware that there's a scene where
3 Steven Avery's sister says that a violent assault was
4 not in his nature?

5 A No.

6 Q Are you aware that there's a scene where a
7 member of the media says that it was because he was
8 one of the usual suspects around Manitowoc County?

9 A No.

10 Q Are you aware that there's a scene where the
11 presiding judge in the Penny Beerntsen case says that
12 he believed Avery's propensity against violence --
13 against -- violence against women in particular, was
14 a fact?

15 A No, I'm not aware of that.

16 Q Isn't that a good example of Making a
17 Murderer showing different viewpoints and opinions
18 regarding Steven Avery's character?

19 MR. BURNETT: Objection, form.

20 Go ahead.

21 A I would have to watch the entire thing to
22 offer an intelligent answer on that, and I haven't
23 done that.

24 Q Are you aware that Undersheriff Hermann is
25 interviewed in Making a Murderer?

1 A No, I wasn't aware of that.

2 Q Are you aware that he is extremely critical
3 of Steven Avery's allegations that evidence was
4 planted?

5 A I'm not aware of that.

6 Q Are you aware that there is a scene in
7 Making a Murderer where he not only denies the
8 planting allegations but characterizes them as,
9 quote, impossible, end quote, and quote, far-fetched,
10 end quote.

11 A No, I'm not aware of that.

12 Q Now, incidentally, you ran against
13 Undersheriff Hermann to replace Ken Petersen as the
14 sheriff of Manitowoc County, right?

15 A Yes, I did.

16 Q But Making a Murderer includes a clip of
17 him -- I'll represent that Making a Murderer includes
18 a clip of him very vigorously disputing the planting
19 allegations that were made against law enforcement
20 officers. Are you aware of that?

21 A No.

22 Q Is it your position that Making a Murderer
23 is biased against law enforcement?

24 A Yes.

25 Q Are you aware that Laura Ricciardi has

1 yesterday or today, about the fact that there were
2 restrictions on your ability to comment on the case
3 while you were at the Manitowoc County Sheriff's
4 Office, right?

5 A Yes, sir.

6 Q But you testified that you were allowed to
7 give a statement after Steven Avery was found guilty,
8 correct?

9 A Yes.

10 Q Are you aware that Making a Murderer
11 contains press coverage where that statement is read
12 aloud?

13 A Attorney Walker did tell me that yesterday,
14 yes.

15 Q Are you surprised that Making a Murderer
16 included your public statement?

17 A I'm not 100 percent sure what I told
18 Attorney Walker, but I would like to see the context
19 in which it was portrayed.

20 Q Well, we don't have a ton of time, but this
21 one might be worth it then, so I'm going to go ahead
22 and show you that.

23 A Can you tell me what episode that is?

24 Q Yeah. Sure. It's Episode 8, which I
25 believe you said you never reached?

1 A Right, I never did. So if they spent
2 Episodes 1 through 7 making me look like a villain,
3 I'm guessing Episode 8's inclusion of my statement
4 isn't going to -- my statement isn't going to be
5 taken very seriously by the viewing public who's
6 already made up their mind that I'm the villain.

7 Q I'll move to strike that. That wasn't what
8 my question was.

9 A Okay.

10 Q You just asked me what the -- what the
11 episode was.

12 A Right.

13 Q And I was trying to provide that
14 information. You know, I don't -- time is precious
15 at this point. I'll just say you might look for
16 yourself. It's Episode 8 --

17 A Okay.

18 Q -- minute 33 to 34. I think you may -- it's
19 up to you. You may find that it's actually just a
20 pretty neutral presentation of a news coverage where
21 they're just reading your statement.

22 A Okay. Thank you.

23 Q Did Brenda Schuler tell you that Making a
24 Murderer included coverage of your public statement
25 after Steven Avery's conviction?

1 A Not that I recall.

2 Q Did Michael Griesbach tell you that?

3 A Again, not that I recall.

4 MS. BARKER: Um...

5 Q I'm sorry. Before you were -- before he was
6 your attorney, did -- you said not that you recall,
7 so it doesn't matter.

8 A Right.

9 Q But, again, to be clear, I don't want any
10 conversations between you and Mr. Griesbach once he
11 was your attorney.

12 MS. BARKER: Thank you.

13 Q Now, how was it that you got selected to
14 give that public statement?

15 A I believe the department felt that I had had
16 the worst -- worst luck with the media, and I don't
17 know 100 percent, but I thought they also wanted Jim
18 Lenk to do one as well and he refused.

19 Q So then it fell to you to do it?

20 A Well, I think initially it was going to be
21 both of us.

22 Q Yeah.

23 A But, yes, then I -- I was the only one left,
24 and they coupled that with, "You will do it."

25 Q I mean, were you happy to do it? Did it

1 **give you sort of a sense of vindication?**

2 A I can't say it gave me a sense of
3 vindication, but yes, I was hoping that the Halbachs
4 would appreciate that, you know, we can conducted
5 this investigation to the best of our ability and
6 ethically.

7 Q Besides that public statement, did the
8 sheriff's office allow you to make other public
9 statements regarding the case?

10 A Not that I recall.

11 Q Now, if they had allowed you to make
12 statements about the case and if they'd allowed you
13 to be interviewed for Making a Murderer, what would
14 you have wanted to say?

15 A I don't know. I'm very distrustful of the
16 media now, so I can't say 100 percent whether I would
17 even do it.

18 Q Would you have wanted to see -- would you
19 have wanted to have statements that, you know, you
20 weren't guilty of things that some people were saying
21 that you did?

22 A If I were to give a statement that would be
23 included in there, I would emphasize a lot of these
24 media attempts are eroding the public's confidence in
25 law enforcement and the criminal justice system, and

1 while we're human and imperfect, for the most part
2 the criminal justice system does get it right.

3 Q I already told you about Undersheriff
4 Hermann's calling the planting accusations
5 far-fetched and impossible, right?

6 A Yes, sir.

7 Q So I'm going to play you now something from
8 Episode 5, which I believe is one that you have
9 seen -- or parts of the episode. I take that back.
10 I'm going to show you a clip of Norm Gahn. Are you
11 familiar with this scene?

12 A No.

13 (Video playing.)

14 Q Would you agree that that shows prosecutors
15 pushing back quite vigorously against the planting
16 theory?

17 MR. BURNETT: Objection, form.

18 A Yes.

19 Q And they refer to the officers being accused
20 as being good, solid, decent family men, right?

21 A I don't think I saw that, but -- I don't
22 recall hearing that, hearing them say that. I
23 thought it centered more around the testing of the
24 blood or that we have a right to have our reputations
25 protected or something to that extent.

1 Q I'll go to another clip that's maybe more
2 directly about you. This is in Episode 7. Oh, the
3 one I just showed was Episode 5, 1:08 to 2:34.

4 A Okay.

5 Q The one I'm going to show now is Episode 7,
6 13:55 to 14:28.

7 (Video playing.)

8 MS. RICCIARDI: You're in Episode 5.

9 MR. VICK: Oh, is this still in
10 Episode 5? My apologies. Now I'm in Episode 7.

11 (Video playing.)

12 Q Would you agree that that shows Ken Kratz
13 vigorously disputing the planting allegations?

14 MR. BURNETT: Objection, form.

15 A That appeared to be an out-of-court
16 interview --

17 Q Yeah.

18 A -- with reporters, not in front of the judge
19 like the preceding one.

20 Q Oh, you're absolutely correct. I'm not
21 limiting this just to the in court. I'm saying would
22 you agree that this is an instance of Ken Kratz out
23 of court to the media, I think the word he used was
24 deplorable to describe the planting theory; is that
25 accurate?

1 A Yes.

2 Q So this is another instance where Making a
3 Murderer shows people pushing back strongly against
4 the planting theory, right?

5 MR. BURNETT: Objection, form.

6 A In that particular clip, yes.

7 Q Had you ever seen that clip before?

8 A No.

9 Q Okay. Same thing, Episode 27 -- or
10 Episode 7. Now I'm going to 24:29 to 24:50. Again,
11 this is going to be another one out of court.

12 A Okay.

13 (Video playing.)

14 Q Is that another instance showing someone?

15 A Yes. I've seen that one.

16 Q Yeah. Did you appreciate that that one was
17 in this episode?

18 A I have to be honest with you, I don't
19 appreciate anything about Making a Murderer, but I
20 appreciate that the reporter asked that question of
21 Attorney Strang.

22 Q And do you appreciate that that reporter's
23 question was then included in this episode?

24 A Without watching it in its entirety, I have
25 to stay by my original answer that I don't appreciate

1 anything about Making a Murderer. I don't appreciate
2 it at all.

3 Q But you've testified that you haven't seen
4 the whole series, right?

5 A Correct.

6 Q And I don't want to use my time showing you
7 all the episodes.

8 A Okay.

9 Q I'll represent Episode 7 at 34:45 to 35:08,
10 if you have any interest in seeing these later, I'm
11 sure your counsel could probably get it for you.

12 A Yes.

13 Q There's another episode of Norm -- there's
14 another instance of Norm Gahn sticking up for you.
15 Is that something you're aware is in Making a
16 Murderer?

17 A No. Well, is that the one you just showed
18 me or --

19 Q It's a different one.

20 A Okay.

21 Q Are you aware that there is also footage, a
22 scene, of yet another instance of Norm Gahn, this
23 time at a press conference, where he's pushing back
24 on the planting theory?

25 A No.

1 Q Are you aware that during that press
2 conference he calls it a, quote, despicable
3 allegation?

4 A No, I'm not aware of it.

5 Q Would you say that Norm Gahn there in
6 calling it a despicable allegation pretty accurately
7 captures your own views of those allegations made
8 against you and Lieutenant Lenk?

9 A Certainly.

10 Q Are you aware that there is a clip in
11 Episode 7 of Making a Murderer that shows Mike
12 Halbach giving his views on Steven Avery?

13 A No.

14 Q Are you aware that it -- that there's --
15 that it shows that Mike Halbach believes Steven Avery
16 was guilty and was lying when he claimed to be
17 innocent?

18 A I'm not aware of that in Making a Murderer,
19 no.

20 Q So nobody had ever told you that Mike
21 Halbach was in -- there was a scene involving Mike
22 Halbach giving his opinion that Steven Avery was
23 guilty and was lying?

24 A As it pertains to Making a Murderer?

25 Q Correct.

1 A That's correct.

2 Q Are you aware that there is a scene in
3 **Making a Murderer** in which Judge Willis provides his
4 view that Steven Avery is, quote, probably the most
5 dangerous individual to set forth -- set foot in this
6 courtroom?

7 A In Making a Murderer?

8 Q Yes, in Making a Murderer.

9 A No, I'm not aware that that's in Making a
10 Murderer.

11 Q After this deposition, are you going to
12 watch the entire series do you think, Sergeant
13 Colborn?

14 MR. BURNETT: Objection, form, calls for
15 speculation.

16 A As we sit here and talk right now, I don't
17 have that intention, but I certainly will seek the
18 advice of my counsel on it.

19 Q Prior to bringing this lawsuit, did anybody
20 tell you about the clips that you and I have
21 discussed in the last hour or so in which various
22 individuals defend you?

23 A No.

24 Q Do you think that could change your overall
25 view of the series?

1 A No.

2 Q How could you know without watching them?

3 A Well, I can't. You just said what do I
4 think, so I thought you wanted me to render an
5 opinion.

6 Q Did John Ferak's columns typically include
7 quotes from people in law enforcement who were
8 defending you, who were telling -- who were saying
9 that these are despicable allegations that are being
10 made?

11 A Not that I recall.

12 Q I'd like to look at Exhibit -- Exhibit 1146.

13 (Exhibit 1146 marked for identification.)

14 A Thank you.

15 Q This is another text between you and Brenda
16 Schuler, right?

17 A Yes.

18 Q And she says at the top, "Andy, sorry to bug
19 you as I just deleted the emails not that long ago
20 from you. Ken needs them again. He lost them. So
21 sorry! Can you check your emails to me please? Your
22 'sent' file please?" And your response is, "I may
23 have hard copy but I think I deleted them from my
24 sent file and anywhere else after Ferak demanded all
25 our emails. Would hard copy work???" And she says,

1 A I don't specifically recall that statement,
2 sir.

3 Q Would it surprise you to -- I don't want to
4 waste the time. Would it surprise you to see a text
5 in which she says something like that?

6 A Is the text to me?

7 Q Yes.

8 A Do you have the text?

9 Q Sure. Let's take a look at Exhibit 1144.

10 A 1144. Do I have that one?

11 Q You don't yet.

12 A Okay.

13 Q I've been jumping around out of order.

14 A Okay. Sorry.

15 (Exhibit 1144 marked for identification.)

16 Q I'm looking at -- it's probably the third
17 page of the document. It's the one at the bottom
18 that says 8179.

19 A Okay.

20 Q And down at the bottom, her last comment --
21 well, right above that you say, "I would guess they
22 aren't going to like this deposition!" And then she
23 says, "I'll pay anything for a video. I mean
24 ANYTHING." And you respond, "Lol. I know what you
25 mean!!"

1 **Has Ms. Schuler asked you --**

2 A I don't know what she's talking about there.

3 **Q You're not sure if she's talking about --**

4 A Whose -- "I would guess they aren't going
5 to" -- I don't know whose deposition she's talking
6 about.

7 **Q Well, I'll --**

8 A I don't remember the conversation. I'm not
9 denying that that's my text messages.

10 **Q I'll make the question a little bit broader.**
11 **Has Brenda Schuler asked you for any of the materials**
12 **that you've gotten in this case?**

13 A The civil case?

14 **Q Yes, the civil case.**

15 A No, I can't recall her making any sort of
16 request for me to give her materials for this case.
17 I think she knows that all the materials are in the
18 possession of my coun -- of counsel.

19 **Q And she hasn't asked you to --**
20 **notwithstanding that, to pass on some of those**
21 **materials to you?**

22 A Not that I'm aware of, no. Not that I can
23 recall.

24 **Q Was she supportive about you bringing this**
25 **lawsuit?**

1 A Yes. Initially, yes.

2 Q I'd like to show you Exhibit 1145.

3 (Exhibit 1145 marked for identification.)

4 Q And this is another text chain between you
5 and Brenda Schuler, correct?

6 A Yes.

7 Q And it's dated 11/30/2018, right?

8 A Yes.

9 Q And that's less than three weeks before you
10 filed the initial Complaint in this action, correct?

11 A Yes.

12 Q At the top she says, "Can you talk to me? I
13 need to call you," right?

14 A Yes, she said -- yes, that's what the text
15 says.

16 Q And you say, "Trust me my friend, you are
17 going to be up to your neck in this just like me.
18 Lol," correct?

19 A Yes.

20 Q And then she responds, "Andy, not going to
21 lie, I think him repping you and now alone is a
22 really bad idea. If he had to go to internet ppl,"
23 do you understand ppl means people --

24 A Yes.

25 Q -- "to get simple questions like these

1 A Is that the Amended Complaint?

2 Q **It is, yeah.**

3 A Okay.

4 MR. BURNETT: Are we in a position to
5 wrap this up?

6 MR. VICK: We are.

7 MR. BURNETT: Great.

8 Q **I'd like you to look at paragraph 37**
9 **specifically.**

10 A Okay. Okay.

11 Q **So here you say, "Defendants Ricciardi and**
12 **Demos strategically spliced 'reaction' shots of**
13 **plaintiff appearing nervous and apprehensive at trial**
14 **into other portions of his testimony where he did not**
15 **appear nervous or apprehensive in fact." Do you see**
16 **that?**

17 A Yes.

18 Q **Do you recall what it was about your**
19 **demeanor in any of the shots that made you look**
20 **nervous or apprehensive? Was there anything that you**
21 **can recall right now that made you feel that way?**

22 A Specifically the clip that you showed me
23 that I commented on earlier where it appears that
24 Dean Strang is giving me some sort of staredown and
25 the -- it pans to the shot of me leaning back and

1 cracking my knuckles.

2 I did that during a recess out of the view
3 of the jury. I certainly didn't do it in front of
4 Attorney Strang, but it certainly does make me look
5 nervous and apprehensive and that I've been caught in
6 some sort of lie.

7 **Q Now, Mr. Colborn, I'm not sure if you're**
8 **aware, but during this deposition the last couple**
9 **days, you've kept your head down a decent amount.**
10 **Does that sound right?**

11 A I'm frequently reading, but yes.

12 **Q And you've sometimes had your head in your**
13 **hands or cracked your knuckles in the course of this**
14 **deposition. Does that sound right?**

15 A Okay. I don't recall that, but I don't know
16 what -- what you want me to -- what you're trying
17 to -- can you clarify a little bit for me?

18 **Q Well, is it possible that maybe things like**
19 **cracking your knuckles or looking down, that that's**
20 **just a natural mannerism of yours?**

21 A The footage that I've watched of my trial
22 testimony, I frequently make contact with whoever
23 questioning me. Now, I was not in trial given a
24 stack of documents like this and told frequently to
25 go to this page, go to that page, look at this, look

1 **counseling session?**

2 A Knock it off.

3 Q Now, if you do watch Making a Murderer in
4 its entirety, will you agree to supplement, either a
5 stipulation or some sort of answer, letting us know
6 that you've, in fact, watched the whole thing?

7 MR. BURNETT: That's a question for me,
8 and we will.

9 MR. VICK: Okay. That's all we have.

10 MR. BURNETT: Thank you. All righty.
11 Paula, we will read and sign. We're done.

12 THE VIDEOGRAPHER: Going off the record
13 at 4:40.

14 (Proceedings concluded at 4:40 p.m.)

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CERTIFICATION PAGE

STATE OF WISCONSIN)

MILWAUKEE COUNTY)

I, PAULA M. HUETTENRAUCH, RMR, CRR,
Notary Public in and for the State of Wisconsin, do
hereby certify:

That prior to being examined, the
deponent named in the foregoing deposition,
ANDREW L. COLBORN, was by me duly sworn to testify
the truth, the whole truth, and nothing but the
truth.

That said deposition was taken before
me at the time, date, and place set forth; and I
hereby certify the foregoing is a full, true, and
correct transcript of my shorthand notes so taken and
thereafter reduced to computerized transcription
under my direction and supervision.

I further certify that I am neither
counsel for nor related to any party to said action,
nor in any way interested in the outcome thereof; and
that I have no contract with the parties, attorneys,
or persons with an interest in the action that
affects or has a substantial tendency to affect
impartiality, or that requires me to provide any
service not made available to all parties to the
action.

IN WITNESS WHEREOF, I have hereunto
subscribed my name this 28th day of July, 2022.



Paula M. Huettenrauch, RMR, CRR
Notary Public - State of Wisconsin

My Commission Expires 8/18/2023



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

ANDREW L. COLBORN,
Plaintiff,
vs.

NETFLIX, INC.,
CHROME MEDIA, LLC, f/k/a
SYNTHESIS FILMS, LLC,
LAURA RICCIARDI, and
MOIRA DEMOS,

Case No. 19-CV-484

Defendants.

ERRATA SHEET FOR JULY 21-22, 2022, DEPOSITION OF ANDREW L. COLBORN

Location	Current Language	Corrected Language	Reason
Volume 1 Page 201, Line 4	"Certainly there was exploration and thoughtful debate."	"Certainly if there was exploration and thoughtful debate."	Substantive / mis-statement
Volume 2 Page 392, Line 16	"I don't believe to this day they would follow up on it."	"I don't believe to this day they would follow up on it with me ."	Substantive / mis-statement
Volume 2 Page 447, Lines 6-7	"... and I told him ..."	"... and I was told that ..."	Substantive / mis-statement
Volume 2 Page 447, Line 8	"You are already there."	"You are already here ."	Transcription error
Volume 2 Page 479 , Line 4	"We can conducted ..."	"...we conducted ..."	Transcription error
Volume 2 Page 497, Line 22	"I frequently make contact..."	"I frequently make eye contact..."	Substantive / mis-statement

Dated: August 31th, 2022

Respectfully submitted,



Andrew L. Colborn

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